

NOVEMBER 26, 2007MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**07 C 6617**FRANK L. DILEONARDO, JR. as)
trustee of the Frank L. DiLeonardo,)
Jr. Trust, and TIMOTHY N. TATUM,)
an individual,)

Plaintiffs,)

v.)

Case No.

**JUDGE NORGLÉ
MAGISTRATE JUDGE COX**

JOSEPH FLETCHER, an individual,)

Defendant.)

CEM**COMPLAINT**

Frank L. DiLeonardo, Jr. as trustee of the Frank L. DiLeonardo Jr. Trust (“DiLeonardo”) and Timothy N. Tatum (“Tatum”), an individual, by and through their attorneys, Schuyler Roche, P.C., for their Complaint against Joseph Fletcher (“Fletcher”) an individual, states as follows:

PARTIES

1. DiLeonardo is, and at all times relevant to this Complaint has been, a resident of the State of Illinois. DiLeonardo resides at 2075 Lawson Boulevard, Gurnee, Illinois 60031.
2. Tatum is, and at all times relevant to this Complaint has been, a resident of the State of Illinois. Tatum resides at 7736 Route 34, Yorkville, Illinois 60560.
3. Fletcher is, and at all times relevant to this Complaint has been, a resident of the State of California. Fletcher resides at 4452 Ocean Height Court, Seaside, California 93955.

JURISDICTION AND VENUE

4. This is an action between two citizens of Illinois, DiLeonardo and Tatum (collectively the “Plaintiffs”), and a citizen of California, Fletcher. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332(a).

5. Venue is properly placed in this Court as the Promissory Note (the “Note”) signed by Fletcher expressly states “any action, suit, or proceeding to enforce or arising under this Note shall be brought in the United States District Court for the Northern District of Illinois” and the Note “shall be governed by and construed in accordance with the internal laws of the State of Illinois.”

COUNT I – BREACH OF CONTRACT

6. On or about September 20, 2007, in exchange for good and valuable consideration, Fletcher executed the Note, a copy of which is attached as Exhibit A hereto, in connection with the Monterey Music Summit 2007. Under the terms of the Note, Fletcher promised to pay to the Plaintiffs the principal amount of two hundred thousand dollars (\$200,000.00), together with interest thereon at the rate of thirty five percent (35%) due on October 25, 2007. Fletcher’s total payment due and owing the Plaintiffs on October 25, 2007, was to be in the amount of two hundred and seventy thousand dollars (\$270,000.00).

7. Fletcher never made payment to the Plaintiffs on October 25, 2007 in direct breach of the Note.

8. Although Fletcher waived his right to demand on the Note, the Plaintiffs nevertheless issued Fletcher a formal demand for payment on the Note on November 2, 2007. A copy of the Plaintiffs' formal demand for payment is attached hereto as Exhibit B.

9. As of November 26, 2007, Fletcher has still failed to make payment on the Note.

10. Pursuant to the Note, interest has accrued at the lawful rate of \$1,000 per day. As of November 26, 2007, there remains due and owing from Fletcher to the Plaintiffs the amount of two hundred and seventy thousand dollars (\$270,000.00) plus interest in the amount of fifteen thousand dollars (\$31,000.00) totaling two hundred and eighty five thousand dollars (\$301,000.00).

11. Additionally, Fletcher is liable to the Plaintiffs for their reasonable attorneys' fees pursuant to the Note.

WHEREFORE, the Plaintiffs Frank L. DiLeonardo, Jr. as trustee of the Frank L. DiLeonardo Jr. Trust and Timothy N. Tatum respectfully request that this Court:

- A. Enter judgment in favor of the Plaintiffs and against Defendant Joe Fletcher in the sum of \$270,000.00 plus interest at the rate of \$1,000.00 per day based on the promissory note attached as Exhibit A from October 25, 2007, to the date of judgment (or such other amount as may be determined by the evidence);
- B. Grant the Plaintiffs all costs incurred in connection with this action, including their reasonable attorneys' fees;
- C. Grant the Plaintiffs post-judgment interest at the rate authorized by law; and

D. Grant the Plaintiffs such other and further relief as the Court deems to be just and equitable.

FRANK L. DILEONARDO, as trustee of the Frank
L. DiLeonardo Jr. Trust and TIMOTHY N.
TATUM,

/s/ James J. McNamara
ARDC No.: 6286853

James J. McNamara, Esq. (ARDC #6286853)
Schuyler Roche, P.C.
One Prudential Plaza, Suite 3800
130 East Randolph Street
Chicago, Illinois 60601
Tel: (312) 565-2400
Fax: (312) 565-8300